

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: James R. Goodman

Art Unit: 2189

Serial No.: 10/775,448

Examiner: Thanh Duc Vo

Filing Date: February 10, 2004

Customer No.: 23598

Title: Computer Architecture Providing
Transactional, Lock-Free Execution of
Lock-Based Programs

Atty. Dkt. No.: 1512.019

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

A Notice of Appeal is filed concurrently herewith. Applicant hereby requests pre-appeal review of the final rejection in the above-identified application. No amendments are being filed with this request. The review is requested for the reasons set forth below.

REMARKS

Claims 1-23 stand reject under 35 U.S.C. §102(a) or 35 U.S.C. §102(b) as being anticipated by Rajwar based on his thesis "Speculation-based Techniques for Transactional Lock Free Execution of Lock-Based Programs."

Applicant has corresponded with the Examiner and has previously noted that this thesis was first available to the public on April 25, 2003, less than one year prior to the filing date of the present application, as determined by consulting with University Microfilm, Inc.

The Examiner further inquired about whether the thesis was available in the library of the University of Wisconsin before it was committed to microfilm form by University Microfilm, Inc. through a request for additional information under 37 C.F.R. 1.105.

In response to this request, the Applicant conferred with Irene Zimmerman of the University of Wisconsin library as to the date that the thesis was first catalogued and, therefore, first available to the public. This date has been confirmed to be May 29, 2003, although the thesis was, in fact, not shelved in the stacks until around June 11, 2003. These dates are after the date that the thesis was available from University Microfilms of April 25, 2003 and well within the one-year date of the filing of the present application under 35 U.S.C. §102(b).

These dates are consistent with our understanding of the practice of the University of Wisconsin-Madison library, which is that dissertations received from the graduate school are sent to University Microfilms, which films the title, then returns a photocopy for filing to the library. Applicant believes that the publication date of 2002 suggested by the ACM index is simply a transcription of the date of Oral Examination, at which time the thesis was not available to the public.

Thus, the present thesis is not a reference under 35 U.S.C. §102(b).

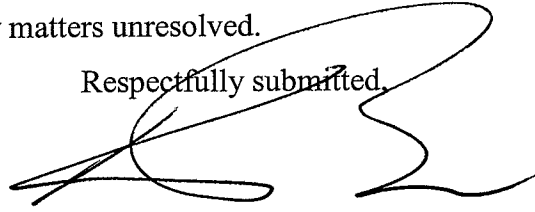
The Examiner also inquired about whether co-inventor James R. Goodman was properly named because he is not listed as an author on co-inventor Ravi Rajwar's doctoral thesis. Applicant has submitted a statement establishing that co-inventor James R. Goodman contributed to the inventions described in this thesis, and thus, the thesis is not prior art under 35 U.S.C. §102(a).

These materials were received by the USPTO on December 10, 2006 as evidenced by the Private Pair site under the Image File Wrapper, but are not shown in the Transaction History. The undersigned has made several calls to the Examiner with respect to the status of the case and has not heard back.

There appear to be no outstanding objections to the claims in this case nor any reason to believe that the patent is not allowable over the doctoral thesis originally submitted by the Applicants as part of their duty of candor. It is believed that claims 1-23 should proceed to allowance.

Applicant appreciates the panel's review and cordially invites the panel members to call the undersigned, should they consider any matters unresolved.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Keith M. Baxter', written over the words 'Respectfully submitted,'.

Keith M. Baxter
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Dated: December 29, 2006

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